

Article 21.

Revenue Bonds for Student Housing, Student Activities, Physical Education and Recreation.

§ 116-187. Purpose of Article.

The purpose of this Article is to authorize the Board of Governors of the University of North Carolina to issue revenue bonds, payable from rentals, charges, fees (including student fees) and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or in part, of buildings and other facilities for the housing, health, welfare, recreation and convenience of students enrolled at the institutions hereinafter designated, housing of faculty, adult or continuing education programs and for revenue-producing parking decks or structures, and for University of North Carolina Hospitals at Chapel Hill. (1963, c. 847, s. 1; 1967, c. 1148, s. 1; 1971, c. 1061, s. 1; c. 1244, s. 16; 1979, c. 731, s. 6; 1989, c. 141, s. 4.)

§ 116-187.1: Repealed by Session Laws 2006-203, s. 53, effective July 1, 2007, and applicable to the budget for the 2007-2009 biennium and each subsequent biennium thereafter.

§ 116-188. Credit and taxing power of State not pledged; statement on face of bonds.

Revenue bonds issued as in this Article provided shall not be deemed to constitute a debt or liability of the State or any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the funds herein provided therefor from revenues. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the State nor the Board (herein mentioned) shall be obligated to pay the same or the interest thereon except from revenues as herein defined and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds hereunder shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any taxes whatsoever therefor. (1963, c. 847, s. 2.)

§ 116-189. Definitions.

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

- (1) The word "Board" shall mean the Board of Governors of the University of North Carolina.
- (2) The word "cost," as applied to any project, shall include the cost of acquisition or construction, the cost of acquisition of all property, both real and personal, or interests therein, the cost of demolishing, removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for a period not exceeding one year after completion of such construction, provisions for working capital, reserves for debt service and for extensions, enlargements,

additions and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project, and such other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, and the placing of the project in operation. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

- (3) The term "existing facilities" shall mean buildings and facilities then existing any part of the revenues of which are pledged under the provisions of any resolution authorizing the issuance of revenue bonds hereunder to the payment of such bonds.
- (4) The word "institution" shall mean each of the institutions enumerated in G.S. 116-2, the University of North Carolina Health Care System, and The University of North Carolina System Office.
- (5) The word "project" shall mean and shall include any one or more buildings, structures, or facilities of any size or type now or hereafter existing for (i) the housing, health, welfare, recreation, and convenience of students, (ii) the housing of faculty, (iii) academic, research, patient care, and community services, and (iv) parking at an institution or institutions, that has been approved by the Board and the Director of the Budget and any improvements or additions so approved to any such buildings, structures, or facilities, including, but without limiting the generality thereof, dormitories and other student, faculty, and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, infirmaries and other health care buildings, academic facilities, furnishings, equipment, parking facilities, and necessary land and interest in land. Any project may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, rooms and other facilities for guests and visitors, and facilities for meetings and for recreational, cultural, and entertainment activities.
- (6) The word "revenues" shall mean all or any part of the rents, charges, fees (including student fees) and other income revenues derived from or in connection with any project or projects and existing facilities, and may include receipts and other income derived from athletic games and public events. (1963, c. 847, s. 3; 1965, c. 31, s. 3; 1967, c. 1038; c. 1148, s. 2; 1969, c. 297, s. 8; c. 388; c. 608, s. 1; c. 801, ss. 2-4; 1971, c. 1061, s. 2; c. 1244, s. 16; 1979, c. 731, s. 6; 1983, c. 577, s. 8; 1989, c. 141, s. 5; 2000-168, ss. 4, 5; 2018-12, s. 8.)

§ 116-190. General powers of Board of Governors.

The Board is authorized, subject to the requirements of this Article:

- (1) To determine the location and character of any project or projects and to acquire, construct and provide the same and to maintain, repair and operate and enter into contracts for the management, lease, use or operation of all or any portion of any project or projects and any existing facilities;
- (2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same;
- (3) To fix and revise from time to time and charge and collect (i) student fees from students enrolled at the institution operated by the Board, (ii) rates, fees, rents and charges for the use of and for the services furnished by all or any portion of any project or projects and (iii) admission fees for athletic games and other public events;
- (4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, including parietal rules, when deemed desirable by the Board, to provide for the maximum use of any project or projects and any existing facilities;
- (5) To acquire, hold, lease and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities for such period or periods of years, not exceeding 40 years, upon such terms and conditions as the Board determines subject to the provisions of G.S. 143-341;
- (6) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment in connection with any project or projects and existing facilities, and to fix their compensation;
- (7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article;
- (8) To receive and accept from any federal, State or other public agency and any private agency, person or other entity donations, loans, grants, aid or contributions of any money, property, labor or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided; and
- (9) To do all acts and things necessary or convenient to carry out the powers granted by this Article. (1963, c. 847, s. 4; 1971, c. 1244, s. 14.)

§ 116-191. Issuance of bonds and bond anticipation notes.

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bonds of the Board for the purpose of paying all or any part of the cost of acquiring, constructing or providing any project or projects. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 50 years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or

places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, bonds may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Article.

The Board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this section. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds.

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated,

shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer, whose signature or a facsimile of whose signature shall appear on any notes or coupons, shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both, as the Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the Board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word "bonds," wherever used in this Article, shall be deemed and construed to include the words "bond anticipation notes." (1963, c. 847, s. 5; 1969, c. 1158, s. 2; 1971, c. 511, s. 2; 1973, c. 662; 1975, c. 233, s. 2; 1983, c. 577, s. 8.)

§ 116-192. Trust agreement; money received deemed trust funds; insurance; remedies.

In the discretion of the Board and subject to the approval of the Director of the Budget, any revenue bonds issued under this Article may be secured by a trust agreement by and between the Board and a corporate trustee (or trustees) which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received, but

shall not convey or mortgage any project or projects or any existing facilities or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the holders of such bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board in relation to the acquisition, construction or provision of any project or projects, the maintenance, repair, operation and insurance of any project or projects and any existing facilities, student fees and admission fees and charges and other fees, rents and charges to be fixed and collected, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds or revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Board. Any such trust agreement or resolution may set forth the rights and remedies of the holders of the bonds and the rights, remedies and immunities of the trustee or trustees, if any, and may restrict the individual right of action by such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Board may deem reasonable and proper for the security of such holders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the project or projects for which such bonds are issued or as an expense of operation of such project or projects, as the case may be.

All moneys received pursuant to the authority of this Article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Article. The Board may provide for the payment of the proceeds of the sale of the bonds and the revenues, or part thereof, to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such requirements as are provided in this Article and in the resolution or trust agreement authorizing or securing such bonds.

Notwithstanding the provisions of any other law the Board may carry insurance on any project or projects and any existing facilities in such amounts and covering such risks as it may deem advisable.

Any holder of bonds issued under this Article or of any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this Article or by such trust agreement or resolution to be performed by the Board or by any officer thereof, including the fixing, charging and collecting of fees, rents and charges. (1963, c. 847, s. 6; 1983, c. 577, s. 8.)

§ 116-193. Fixing fees, rents and charges; sinking fund.

For the purpose of aiding in the acquisition, construction or provision of any project and the maintenance, repair and operation of any project or any existing facilities, the Board is authorized to fix, revise from time to time, charge and collect from students enrolled at the institution under its jurisdiction such student fee or fees for such privileges and services and in such amount or amounts as the Board shall determine, and to fix, revise from time to time, charge and collect other

fees, rents and charges for the use of and for the services furnished or to be furnished by any project or projects and any existing facilities, or any portion thereof, and admission fees for athletic games and other public events, and to contract with any person, partnership, association or corporation for the lease, use, occupancy or operation of, or for concessions in, any project or projects and any existing facilities, or any part thereof, and to fix the terms, conditions, fees, rents and charges for any such lease, use, occupancy, operation or concession. So long as bonds issued hereunder and payable therefrom are outstanding, such fees, rents and charges shall be so fixed and adjusted, with relation to other revenues available therefor, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing such bonds at least sufficient with such other revenues, if any, (i) to pay the cost of maintaining, repairing and operating any project or projects and any existing facilities any part of the revenues of which are pledged to the payment of the bonds issued for such project or projects, (ii) to pay the principal of and the interest on such bonds as the same shall become due and payable, and (iii) to create and maintain reserves for such purposes. Such fees, rents and charges shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State. A sufficient amount of the revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made, the fees, rents and charges and other revenues or other moneys so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Board, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same. (1963, c. 847, s. 7.)

§ 116-194. Vesting powers in executive committee.

The Board may authorize its executive committee to sell any bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in such manner and under such limitations or conditions as the Board shall prescribe and to perform such other functions under this Article as the Board shall determine. (1963, c. 847, s. 8; 1983, c. 577, s. 8.)

§ 116-195. Refunding bonds.

The Board is hereby authorized, subject to the approval of the Director of the Budget, to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds or revenue refunding bonds issued by the Board under Chapter 1289 of the 1955 Session Laws of North Carolina or under G.S. 116-175 to 116-185, inclusive, or under this Article, including the

payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Board is further authorized, subject to the approval of the Director of the Budget, to issue from time to time revenue refunding bonds for the combined purpose of (i) refunding any such revenue bonds or revenue refunding bonds issued by the Board under said Chapter 1289 or under said G.S. 116-175 to 116-185, inclusive, or under this Article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional project or projects.

The issuance of such refunding bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Board with respect to the same, shall be governed by the foregoing provisions of this Article insofar as the same may be applicable. (1963, c. 847, s. 9; 1983, c. 577, s. 8.)

§ 116-196. Exemption from taxation; bonds eligible for investment or deposit.

Any bonds issued under this Article shall at all times be exempt from all taxes or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, which are levied or assessed by the State or by any county, political subdivision, agency or other instrumentality of the State, excluding income taxes on the gain from the transfer of the bonds, and franchise taxes. The interest on the bonds is not subject to taxation as income. Bonds issued by the Board under the provisions of this Article are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law. (1963, c. 847, s. 10; 1995, c. 46, s. 7; 2015-264, s. 16(d).)

§ 116-197. Article provides additional and alternative method.

This Article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, including G.S. 116-175 to 116-185, inclusive, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this Article need not comply with the requirements of any other law applicable to the issuance of bonds. (1963, c. 847, s. 11.)

§ 116-198. Inconsistent laws declared inapplicable.

All general, special or local laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this Article. (1963, c. 847, s. 12.)

§§ 116-198.1 through 116-198.5. Reserved for future codification purposes.